



## UNITED STATES MARINE CORPS

MARINE CORPS AIR BASES WESTERN AREA MCAS MIRAMAR  
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ABO 5800.1

SJA

26 JAN 2004

### AIR BASE ORDER 5800.1

From: Commander

To: Distribution List

Subj: VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP)

Ref: (a) SECNAVINST 5800.11A  
(b) DoD Directive 1030.1 (NOTAL)  
(c) MCO P5800.16A Chapter 6  
(d) DoD Instruction 1030.2 (NOTAL)  
(e) UCMJ (10 U.S.C. Chap 47)  
(f) SECNAVINST 1752.3A  
(g) MCO P1700.24B  
(h) JAGINST 5800.7C

Encl: (1) Victim Witness Liaison Officer (VWLO)  
Responsibilities  
(2) Command Victim Witness Assistance Coordinator (VWAC)  
Responsibilities

Report Required: Review of Publications (Report Control Symbol  
DD-5800-09)

1. Purpose. To implement the Victim and Witness Assistance Program (VWAP) established by references (a) and (b), and to define the policies, responsibilities, and procedures for Marine Corps Air Bases Western Area (MCABWA) compliance with references (a) through (d).

2. Definitions. Expanded definitions of "victim" and "witness" as used in this Order are provided in reference (c). Paragraph 4 below explains the terms generally.

### 3. Background

a. Congress imposed a duty upon departments and agencies of the United States engaged in law enforcement and criminal justice functions to ensure that crime victims are provided specific rights and services.

b. Victims and witnesses of crime normally suffer some adverse impact from the crime. The VWAP is designed to minimize the effects of crime, and to help victims and witnesses understand and

meaningfully participate in the military justice system. The VWAP ensures that Marine Corps personnel are trained to provide appropriate information, referrals, and services.

4. Applicability. The provisions of this Order apply to all MCABWA personnel, Marine Corps and Navy, and by concurrence of the Commanding General, 3d Marine Aircraft Wing (MAW), to 3d MAW personnel assigned to commands tenant aboard MCABWA; MCAS' Camp Pendleton, Miramar, and Yuma, engaged in detecting, investigating, or prosecuting crime, and to personnel assisting crime victims and witnesses. This Order pertains to victims and witnesses of offenses committed in violation of reference (e) and to witnesses involved in proceedings conducted under the Manual for Courts-Martial (MCM), 2002. This Order is not limited to criminal offenses prosecuted at courts-martial. Crime victims and witnesses do not forfeit their status when offenses are referred to non-judicial punishment or administrative separation proceedings. This Order is limited to victims and witnesses who are military members, their families, and Department of Defense civilian employees, contractors, and their family members.

5. Policy. All Marines, Naval personnel attached to Marine units, and Department of the Navy (DoN) employees will ensure that victims and witnesses of crime are informed of their rights as described herein. Marines shall treat all victims and witnesses with respect.

a. A crime victim has the following rights:

(1) To be treated with fairness and with respect for the victim's dignity and privacy.

(2) To be reasonably protected from the accused.

(3) To be notified of court-martial proceedings.

(4) To be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) To confer with trial counsel and convening authorities.

(6) To receive available restitution.

(7) To receive information about the conviction, sentence, confinement, and release of the accused.

b. A witness in a court-martial has the following rights:

(1) To be treated with fairness and with respect for the witness' dignity and privacy.

(2) To be reasonably protected from the accused.

(3) To be notified of any scheduling changes which will affect their appearance at court-martial.

(4) To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, and trial proceedings (including entry of guilty pleas).

(5) To receive information about the conviction, sentence, confinement, and release of the accused.

c. Humanitarian and practical concerns demand that Marine Corps authorities responsible for effective functioning of the criminal justice system consider the needs of victims and witnesses participating in command investigations or disciplinary proceedings. Responsible authorities must mitigate, within the means of available resources and in accordance with applicable law, the physical, psychological, and financial hardships suffered by crime victims and witnesses and make all reasonable efforts to foster their cooperation in the criminal justice process.

d. Victims and witnesses of domestic abuse or sexual assault often require assistance beyond the information and referrals required under the VWAP. References (f) and (g) provide additional guidance and specific programs for victims and witnesses of those crimes.

e. While special attention must be provided to victims and witnesses of serious, violent crime, all crime victims and witnesses shall receive the assistance provided for in this Order. In cases where the United States or the public is the victim, victim assistance will normally be unnecessary; however, there may be witnesses in those cases who will be entitled to witness services.

f. This Order is not intended to, and does not, create any entitlement, cause of action, or defense in favor of any person arising out of the failure to provide the assistance outlined in this Order. No limitations are placed on the lawful prerogatives of the DoN, the Marine Corps or their officials.

6. Program Overview. VWAP is a multidisciplinary model designed to identify and assist crime victims and witnesses through the criminal justice process beginning with the initial report of a crime and continuing through the investigation, prosecution, sentencing, confinement, and release of an offender.

a. The Commander, Marine Corps Air Bases, Western Area (COMCABWEST) is responsible for implementing the VWAP. The Staff Judge Advocate (SJA), MCABWA shall be the central point of contact for victims and witnesses involved in the criminal justice process.

b. Commanding officers, and officers in charge (OICs) are responsible for ensuring that victims and witnesses in their commands are afforded their rights and are informed of the status of a criminal case through final disposition, especially cases investigated and resolved within the command.

c. All disciplines (including law enforcement, security, criminal investigations, convening authorities, legal, and corrections) are responsible for ensuring a smooth transition of victim and witness assistance through the stages of the criminal justice system.

d. Service providers (e.g., Personal Services Division (PSD) personnel, family advocacy counselors, victim advocates, health care personnel, chaplains, and legal assistance attorneys) are responsible for providing available services to victims and, when appropriate, shall provide referrals to any available community-based services.

## 7. Responsibilities

a. COMCABWEST is the Local Responsible Official pursuant to references (a) through (c). The SJA, MCABWA is the principal agent responsible for implementing and maintaining VWAP on behalf of the Commander/Commanding General. The SJA shall:

(1) Ensure close coordination between local VWAP representatives from the Naval Criminal Investigative Service (NCIS), law centers, military police, commanding officers, medical facilities, PSD, corrections facilities, and chaplains.

(2) Establish a local Victim and Witness Assistance Council to coordinate the efforts to provide a comprehensive assistance program and comply with VWAP notification and reporting

requirements. The SJA shall designate the VWLO who shall act as council chairperson. Complete VWLO responsibilities are outlined in enclosure (1).

(3) Ensure that data concerning the number of victims and witnesses who received DD Forms 2701-2704 is collected and maintained.

(4) Construct and maintain, with the assistance of the local PSD, a directory of programs, services, and crime victim compensation funds available, both military and civilian, to which a victim or witness may be referred. When appropriate, enter in to a Memoranda of Agreement with other service or civilian agencies to ensure victims and witnesses are provided required services.

(5) Ensure that victims and witnesses are receiving the information and services as required under VWAP.

(6) Coordinate with appropriate inspector's offices to ensure VWAP is included as an item of interest during regular inspections.

b. Commanding officers and OICs are responsible for understanding and aggressively supporting VWAP and ensuring compliance with this Order. Every commander (squadron level and above) shall appoint, in writing a VWAC. The appointment letter shall include the VWAC's name, title, duty address, and duty telephone number. VWAC responsibilities are set forth in enclosure (2).

c. Service providers including victim advocates, family advocacy counselors, victim assistance advocates, PSD personnel, chaplains, health care personnel, legal assistance attorneys, and others who assist crime victims and witnesses shall:

(1) Understand and support VWAP and know the rights of victims and witnesses under VWAP.

(2) Inform crime victims and witnesses about VWAP when they receive counseling, treatment, or advice.

(3) Inform victims of spousal or intrafamilial abuse of the benefits provided under "Transitional Compensation for Abused Family Members." The purpose of this program is to help ease the transition from military to civilian life for spouses and/or dependent children of a service member who is separated from active

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duty as a result of a family abuse offense. The spouse and/or family should be referred to the member's commanding officer for assistance with completion of DD Form 2698 - "Application for Transitional Compensation." Eligible applicants may be entitled to a maximum of 36 months or a minimum of 12 months of monthly compensation. Applicants may also be eligible for medical and dental care for a period of one year to treat an injury or illness caused by the abuse offense. Commissary and exchange privileges may also be available for the duration of the payments. The Family Advocacy Program (FAP) Victim Advocate can provide more detailed information. Victims may also seek assistance from the local legal assistance office for benefits provided under "Benefits for Dependents who are Victims of Abuse by Members Losing the Right to Retired Pay" and other benefits under VWAP.

(4) Inform crime victims of state crime compensation funds which may be available to reimburse victims for certain expenses incurred as a result of the crime.

(5) Know the points of contact at your installation for victim and witness assistance issues, including military police, NCIS, SJA, PSD, FAP, medical facilities, and chaplains.

(6) The Director, Personal Services, Marine Corps Community Services (MCCS) shall appoint in writing, by name, title, duty address and phone number, a representative to participate in the installation victim and witness assistance council meetings.

(7) Other supervisors of service providers (e.g., Commanding Officers, Branch Medical Clinic; Head, Legal Assistance; or Command Chaplain) may, upon request to the VWLO, appoint additional representatives to the installation victim and witness assistance council.

d. Investigative and Law Enforcement Personnel

(1) The term "investigative and law enforcement personnel" includes NCIS, CID, military police, security guards, and other individuals with authority to conduct a criminal investigation or inquiry into a crime. All are responsible for the actions detailed herein. For the purposes of this instruction, this term does not include individuals appointed to conduct investigations under chapters II, III, IV, VIII and XII of reference (h).

(2) Investigative and law enforcement personnel shall be trained in VWAP, must provide crime victims and witnesses the

information described in this Order, and shall meet the following specific responsibilities:

(a) All law enforcement personnel must identify victims and witnesses to crimes and treat them with fairness and respect for their dignity and privacy.

(b) Threat assessment. All law enforcement personnel have a continuing duty to take reasonable measures to protect victims and witnesses from further threat, harm and intimidation. To that end, investigative and law enforcement personnel shall make an immediate assessment of the situation and take action to minimize the threat to the victim or witness. Exercise care in discussing any protective measures that may be afforded the victim or witness to avoid creating unrealistic expectations concerning the level of protection available.

(c) The individual in charge of a criminal investigation will ensure that the victims/witnesses in the case are provided with DD Form 2701 (Initial Information for Victims and Witnesses of Crime) and ensure that victims/witnesses understand the rights afforded under the law and this Order. DD Form 2701 shall be completed by investigative and law enforcement personnel. The form shall include: the name and telephone number of the investigator, the Victim Witness Liaison Officer, the cognizant VWAC, and other appropriate information. The home address and telephone number of victims and witnesses will not be included in investigative reports unless they are specifically pertinent; e.g., the crime scene is at the victim's home.

(d) Assist victims and witnesses, upon request, in contacting the persons responsible for providing the services and relief described in DD Form 2701. The PSD and the VWLO are responsible for maintaining a directory of service and relief providers. Investigative and law enforcement personnel shall familiarize themselves with this directory and supply victims and witnesses with appropriate phone numbers and addresses. Further assistance in contacting the service/relief providers should be rendered as necessary and appropriate.

(e) If requested, and to the extent that it will not interfere with the investigation, the individual in charge of the investigation will keep the victim apprised of the status of the investigation or inquiry.

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(f) If requested, the individual in charge of the investigation shall promptly notify a victim or witness when a suspect is apprehended.

(g) Investigative and law enforcement personnel shall safeguard a victim's property held as evidence and shall assist in returning it when no longer needed for investigative or prosecutorial purposes.

(h) The VWLO is required to maintain a directory of command VWACs. Investigative and law enforcement personnel shall familiarize themselves with this directory and supply victims and witnesses with names and telephone numbers of the appropriate command VWACs. Further assistance in contacting the command VWAC should be rendered as is necessary and appropriate.

(i) All law enforcement personnel must be educated concerning the victim's rights under VWAP.

(j) Notification to the VWAC. The individual in charge of the investigation will provide the identity of the victim to:

1 Both the accused's VWAC and the victim's VWAC, if accused and victim are military members;

2 The accused's VWAC, if only accused is a military member;

3 The victim's VWAC, if only victim is a military member.

(3) Provost Marshal Office (PMO). In consultation with the Resident Agent-in-Charge, NCIS, shall appoint, in writing, by name, title, duty address, and telephone number, at least one law enforcement representative to serve as the investigative and law enforcement VWAC and as representative to the installation victim and witness assistance council, and ensure the law enforcement VWAC meets the responsibilities in enclosure (2).

e. Trial Counsels. The Directors, Joint Law Centers, MCAS' Miramar and Yuma will ensure trial counsels meet their responsibilities under VWAP as delineated in this Order, including the following specific responsibilities:

(1) Once charges have been referred to trial, the trial counsel assigned to the case shall identify the victims and

witnesses in the case and provide them with DD Form 2702 (Court-Martial Information for Victims and Witnesses of Crime) and determine their elections as to those rights.

(2) Trial counsel shall ensure that victims and witnesses are provided information concerning their role in the criminal justice process, including what to expect from the system, what the system expects from them, the stages in the criminal justice process significant to a crime victim or witness, and the proper method for obtaining further information.

(3) Victim Notification. When a victim has requested notification, trial counsel shall ensure, at the earliest possible convenience, that the victim is advised of:

- (a) The pretrial confinement status of the accused.
- (b) The date charges were referred and the nature of the charges.
- (c) The acceptance of a pretrial plea agreement.
- (d) The scheduling of each court proceeding.
- (e) The findings of the court-martial.
- (f) The sentence adjudged.
- (g) The convening authority's action concerning the court-martial findings and sentence.

(4) Witness Notification. When a witness has requested notification, trial counsel shall ensure, at the earliest possible convenience, that the witness is advised of:

- (a) The acceptance of a plea.
- (b) The findings of the court-martial.
- (c) The sentence adjudged.
- (d) The action of the convening authority as it may affect the sentence.

(5) Victim's Views Concerning Pretrial Plea Negotiations. Victims have a statutorily designated advisory role in decisions involving prosecutorial discretion, such as plea-bargaining. Trial

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counsel shall ensure victims are aware of their right to act in this advisory capacity. In those cases in which a victim has elected to act in such an advisory capacity, trial counsel shall ensure the victim's views concerning prosecution and plea negotiations are obtained and forwarded to the convening authority.

(6) Trial counsel shall ensure, as soon as possible, that all victims and witnesses who have been scheduled to attend criminal justice proceedings are notified of any schedule changes that may affect their appearances.

(7) During the court-martial proceedings, trial counsel shall ensure, to the extent possible, that victims and prosecution witnesses are provided with a waiting area that is separate from, and out of the sight and hearing of, the accused and defense witnesses.

(8) Trial counsel shall inform and assist victims and witnesses concerning the availability of services such as transportation, parking, child care, lodging, and courtroom translators or interpreters.

(9) Upon request by the victim and/or witness, the trial counsel shall take reasonable steps to inform that person's employer of the reasons for absence from work due to court-martial.

(10) The trial counsel shall contact the creditor of a victim or witness who is subjected to serious financial strain caused by the crime, or by cooperation in the investigation or prosecution of an offense.

(11) Trial counsel shall safeguard the property of a victim held as evidence and shall return it as soon as possible.

(12) Sentencing. Trial counsel shall inform victims of the opportunity to present evidence to the court at sentencing. In compliance with applicable law and regulations, the victim may submit a statement concerning the impact of the crime, including financial, social, psychological, and physical harm suffered by the victim.

(13) Post-trial Information. At the conclusion of a court-martial resulting in a conviction, trial counsel shall provide victims and witnesses with DD Form 2703 (Post-Trial Information for

Victims and Witnesses) to convey basic information about the post-trial process.

(14) Post-trial Confinement Status of Accused. At the conclusion of every court-martial in which confinement is adjudged, trial counsel shall prepare DD Form 2704 (Victim/Witness Certification and Election Concerning Inmate Status) with the assistance of the victim or witness (those who fear harm by the offender). Trial counsel shall ensure copies are provided to:

(a) Either the Commandant of the Marine Corps (CMC) (POS-40) for Marine Corps accuseds, or the Chief of Naval Personnel, Corrections and Programs Division (PERS-84), for Navy accuseds.

(b) The confinement facility.

(c) Victims and witnesses whose entitlement to receive information has been certified by trial counsel.

(d) The responsible VWACs.

(15) Directors, Joint Law Centers, MCAS' Miramar and Yuma

(a) Responsible for reporting requirements outlined in paragraph 8 below.

(b) Shall ensure that judge advocates provide victims information and assistance concerning compensation programs available from their states of residence, as appropriate, and other sources of financial relief.

(c) Shall appoint, in writing, appropriate representatives to participate in local victim and witness assistance council meetings.

(d) Shall maintain data on the number of victims and witnesses who received DD Form 2702 (Court-Martial Information For Victims and Witnesses of Crime) and DD Form 2703 (Post-Trial Information for Victims and Witnesses of Crime), and the number of victims and witnesses who elected their rights via DD Form 2704.

8. Reporting. References (a) through (c) require an annual report to the Under Secretary of Defense for Personnel and Readiness, via the Assistant Secretary of the Navy (M&RA), concerning the assistance provided to victims and witnesses of crime. The

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following data must be maintained by the listed agency and forwarded each year to the VWLO by 15 January. The VWLO will compile and send the report to CMC (JAM) no later than 1 February each year.

a. Resident Agent-in-Charge, NCIS. Numbers of victims and witnesses who received DD Form 2701 from field components.

b. PMO. Numbers of victims and witnesses who received DD Form 2701 from personnel assigned to the local military police or installation security; victims and witnesses who received DD Form 2702; victims and witnesses who received DD Form 2703; and victims and witnesses who elected via DD Form 2704 to be notified of changes in prisoner status.

9. Resources and Forms. The Department of Justice, Office for Victims of Crime, 633 Indiana Avenue, N.W., Washington, D.C. 20531, (202) 514-6444, can provide information concerning training and informational materials. The forms referenced in this Order are available in the Marine Corps Electronic Forms System. Reference (c) provides the stock numbers and ordering information.

10. Action. Commanding Officers, Department Heads, Special Staff Officers, and OICs will ensure strict compliance with the contents and provisions of this Order.

11. Concurrence. The Commanding General, 3d MAW concurs with the provisions of this Order.



P. C. CHRISTIAN  
Chief of Staff

DISTRIBUTION: A

VICTIM WITNESS LIAISON OFFICER (VWLO) RESPONSIBILITIES

1. The VWLO is the installation commander's representative responsible for the coordination of victim and witness assistance efforts aboard the installation. The VWLO shall:

a. Ensure that each organization (squadron level and above) assigned to the installation appoints a Victim Witness Assistance Coordinator (VWAC).

b. Coordinate with the senior commanders to ensure that each command (squadron level and above) appoints a VWAC.

c. Maintain a list of VWACs (both organic and tenant) aboard the installation.

d. Maintain a directory of military and civilian programs and services providing counseling, treatment, and other victim support in the areas served, and as appropriate, DoD-wide.

e. Obtain and distribute relevant information to VWACs (both organic and tenant), including the roster of VWACs and the directory of available programs and services.

f. Ensure victims and witnesses are notified of their rights.

g. Ensure victims are notified of the names, titles, duties, addresses, and telephone numbers of the VWACs involved in their case.

h. Assist victims in exercising their rights and obtaining support.

i. Chair meetings of the local Victim and Witness Assistance Council.

j. Assist the installation commander in meeting VWAP reporting requirements.

k. Coordinate with the VWLOs at any base or facility (including, but not limited to MCAS Miramar, MCAS Yuma, Camp Pendleton, the Naval Consolidated Brig, and the Camp Pendleton Brig) with a case involving MCABWA personnel as a victim, witness or accused to ensure mutual compliance with VWAP requirements.

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1. Coordinate with VWLOs at any base or facility (including, but not limited to MCAS Miramar, MCAS Yuma, Camp Pendleton, the Naval Consolidated Brig, and the Camp Pendleton Brig) with a case involving 3d MAW personnel in the event the crime or processing of the crime involves 3d MAW personnel assigned to units aboard MCABWA at the time of the alleged crime or prosecution.

ENCLOSURE (1)

COMMAND VICTIM WITNESS ASSISTANCE COORDINATOR (VWAC)  
RESPONSIBILITIES

1. Generally. The VWAC is the command's primary point of contact for victim witness assistance matters. The VWAC is responsible for obtaining and distributing VWAP materials and for providing VWAP training to the members of the command. In cases involving victims, witnesses, or accused from different commands, the VWACs for the respective commands may have overlapping duties and responsibilities. Coordination between VWACs aboard the installation is essential.

2. Victim or Witness is a Member of VWAC's Command. Once the command is aware that one of their members is a victim or a witness, the VWAC shall ensure that the victim or witness has been advised of applicable rights by providing DD Form 2701 (Initial Information For Victims and Witnesses of Crime), if one has not already been provided, and assist the victim or witness in making an election of rights. Additionally, the VWAC shall, upon request of the victim:

a. Provide the victim with more detailed information concerning the resources available to the victim including information on compensation programs available to victims of intra-familial abuse offenses when the offender is a service member;

b. Assist the victim in obtaining necessary counseling;

c. Maintain contact with all VWACs and other VWAP personnel (such as trial counsel) involved in the victim's case; and

d. Assists victims and witnesses as appropriate and necessary in the exercise of their rights.

3. Accused is a Member of the VWAC's Command. Once the command is aware that the accused is a member of the command, the VWAC shall identify the victim, determine whether the victim has been advised of applicable rights, and determine the victim's elections concerning those rights. Additionally, the VWAC shall, upon request of the victim:

a. Advise the victim of the accused's pretrial confinement status;

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b. Notify the victim of the commander's decisions concerning prosecution, the nature of the charges, and the date charges are preferred;

c. Solicit and discuss the victim's views regarding appropriate disposition of the charges against the accused, particularly during pretrial plea negotiations; and

d. Notify all other VWACs involved in the case of the victim's identity and elections concerning rights.

4. VWAC's Command is the Convening Authority. After charges have been preferred, the VWAC shall identify the victims and witnesses, determine whether the victims have been advised of their rights, and determine the victims' elections concerning those rights. Additionally, the VWAC shall, upon request of the victim:

a. Confirm that the trial counsel assigned to the case has obtained the victim's views concerning plea negotiations and has forwarded that information to the convening authority;

b. Confirm that the trial counsel has complied with the victim's request to be notified of the following:

(1) The date charges are referred and the nature of the charges;

(2) Acceptance of a pretrial agreement;

(3) The court-martial findings concerning guilty;

(4) The sentence adjudged; and

(5) The convening authority's action on the findings and sentence of the court-martial.

c. If the accused is sentenced to confinement, confirm that the trial counsel prepared a DD Form 2704 per paragraph 8g(14) of this order.

d. When a victim has requested notification, the VWAC will advise the victim of the accused's pretrial confinement status.

ENCLOSURE (2)